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**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application Number: 08/720,070
Filing Date: September 27, 1996
Appellant(s): HYATT, RICHARD G



Robert E. Bushnell
For Appellant

**EXAMINER'S ANSWER**

The previous Examiner's Answer of 9/27/06 is vacated.

This is in response to the appeal brief filed 2/6/06 appealing from the Office action mailed 6/13/03. Note that the initial Appeal Brief, filed 06/03/04, was filed under 37 CFR 1.192(c ).

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Co-pending application 10/440,308 (Appeal Brief filed 12/14/05, Examiner's Answer mailed 5/2/06).

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct, with one exception: on page 3 of the Brief, Appellant indicates that an amendment to claim 14 is filed simultaneously with the Appeal Brief. This statement is incorrect. The amendment filed 2/6/06, simultaneously with the Brief, does not propose an amendment to claim 14.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct. However, it is noted that the amendment to claim 11 (reflected in the claims set forth in the Claims Appendix attached to the brief), presented in the amendment filed 9/24/04, and originally indicated as being entered, are not in fact entered. Pursuant the Petition Decision of 5/22/06, the amendments filed 9/24/04 and

10/18/04 are not proper under 37 CFR 41.33(b) and therefore, not entered. Accordingly, the Appellant's discussion of claim 11 should be considered with this in mind.

**(5) Summary of the Claimed Invention**

The summary of the claimed invention contained in the brief is correct.

**(6) Issues**

The appellant's statement of the issues presented for review on appeal is correct.

**(7) Grouping of the Claims**

The appellant's statement that the claims do not stand or fall together is sufficient.

**(8) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is substantially correct, with the exception of claim 11. As discussed in paragraph 4 above, since the amendment filed 9/24/04 has been subsequently deemed non-compliant, and is therefore not entered, claim 11 is presented incorrectly in the attached appendix (in the last line, "detent" should be –distal member—as previously presented). The pending claim 11 will be presented in an attached Appendix to the Examiner's Answer.

**(9) Evidence Relied Upon**

| | | |
|---|---|---|
| 5,552,777 | GOKCEBAY | 9-1996 |
| 5,542,274 | THORDMARK et al | 8-1996 |
| 4,416,127 | GOMEZ-OLEA NAVEDA | 11-1983 |

| | | |
|---|---|---|
| 10/440,308 (filed 5/19/03) | HYATT, JR. | |
| 10/630,759 (filed 7/31/03) | HYATT, JR. | |
| 6,564,601 | HYATT, JR. | And excerpted prosecution history, paper received June 19, 2002, page 39. |

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

See paper no. 53, final rejection mailed 6/13/03.

**1. Claims 11,90,120 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.**

Specifically, the instant specification fails to provide support for the "at least one electromechanical locking member" and "plurality of electromechanical locking members" set forth in claims 90 and 120, respectively. This rejection stands, since, firstly, the solenoid coils 109, argued on page 69 of the amendment filed 2/24/03, are not disclosed "locking members". Secondly, the specification discloses that the "plurality" of locking members 106a, 107a,108a are used alternatively and not as a

plurality within the same plug. See the specification on page 12, lines 11-13 which clearly recites the use of locking member 106a or 107a or 108a.

Additionally, amended claim 11 sets forth, in the last two lines, the phrase "distal member...distal member", which is not understood (how can the distal member surround itself?).

**2. Claims 1-5,6-10,14-24,35-38,70-74,106,111,121 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

In claim 1, line 11, the phrase "for relative to movement" is grammatically improper and not understood. In claim 6, line 20, "locking means" should be –locking device—for proper antecedent basis. In claim 14, line 6, "said first end and second end" lack antecedent basis. In claim 70, line 12, "logical" should be changed to –logic—for proper antecedent basis. In claim 121, line 6, "said cylinder plug detent" lacks antecedent basis.

Note that the claims not specifically discussed are included herein merely because of their dependency.

**3. Claims 1-5,11-13,34,65-69,75,92-100,112,121 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-78 of U.S. Patent No. 6,564,601.**

Although the conflicting claims are not identical, they are not patentably distinct from each other because they merely recite like elements using different terminology

and/or phraseology such as "detent" instead of "bar". It is noted that claims 1 and 11 recite a "detent", but not a "stationary detent", and thus, the side bar detent of the patent reads on this limitation.

**4. Claims 46-52,54,56,64,70,76,77,90,91,105,108,109,111,113-116,119-121, as best understood, are rejected under 35 U.S.C. 103 (a) as being unpatentable over Gokcebay 5,552,777 in view of Thordmark et al 5,542,274 and Naveda 4,416,127.**

Gokcebay teaches all of the elements of the claimed invention including a cylinder 46, plug 24, elongate member (pin tumblers not shown-col.6, lines 61-62), orifice (housing contact/conductor 28 in Fig.3), radially oriented aperture (houses electrical operator 36 with spring biased 48 movable member 38), and electronic logic circuit (fig.2, col.5, line 56 to col.6, line 37). Gokcebay fails to teach a bar/detent which moves radially to the axis of the plug and the electronic operator having an electronic locking member which moves independently of the movement of the bar/detent which is reciprocated between a blocking and releasing position as a result of independent movement of the locking member. Thordmark et al teach a cylinder having an electronic operator 12, a movable electronic locking member 11 which alternately allows and blocks reciprocation of a spring biased sidebar 10 (col.5, lines 38-47). Thordmark et al teach the electrically actuated blocking element being mounted in the cylinder and not the plug. While Gokcebay recognizes the existence of electro-mechanical locks having the blocking tumbler mounted in the cylinder casing like Thordmark, it is the object of the Gokcebay invention to provide a system which is very easily retrofitted into

lock systems having a single key operating a number of locks, and which avoids dealing with electronics, solenoids or other hardware which would take up space within the lock casing adjacent the lock (col.2, lines 49-55). Naveda reinforces that one having ordinary skill in the art of electro-mechanical or magneto-electric lock systems would have known of the versatility and interchangeability of known electronic elements usable in verifying and actuating electric lock cylinders including among others, miniature coils, miniature electromagnets, electronic memories bioelectric circuits, resistance plates and the like (col.3, line 1-13 and col.4, lines 30-35). Furthermore, Naveda teaches that the electromagnet can be located in the receiver, or alternately, in the body of the key having any size or shape (col.4, line 60, col.9, lines 22-25). It would have been obvious to one of ordinary skill in the art to replace the simple blocking element of Gokcebay with the multi-part electrically actuated blocking element of Thordmark et al to thwart natural attempts to force system locks that are equipped with electronic blocking functions, of the kind meant by Thordmark (col. 1, lines 38-42), by making forcing of such locks more difficult. It would have further been an obvious reversal of parts and change of size to select miniature logic circuitry and a miniature solenoid and locking member 11 such that the blocking mechanism fits within a conventional sized lock plug as taught by Gokcebay and Naveda.

**(11) Response to Argument**

**Introductory comments regarding presentation of arguments in Appellant's Brief**

At the outset, it is noted that determining the scope of the claims in this application, and the co-pending applications (10/440,308,10/630,759), is painstakingly difficult since Appellant's specification terminology, and arguments, in many instances, do not correspond to claim terminology. Furthermore, Appellant's arguments vacillate between the various terms used interchangeably throughout the specification and claims, though it is noted that Appellant often contradicts his own recitations and arguments, in later arguments throughout the brief. Appellant has argued throughout prosecution of this and the co-pending applications, that the detent and bar are two different elements. It is noted, however, that in the prosecution of co-pending application 10/061,202 which matured to patent no. 6,564,601, on page 39 of his remarks accompanying the amendment of 6/19/02 (attached in the Evidence Appendix of this Answer), Appellant stated the following: "The detent used throughout the claims is generic to either a bar, rod or sidebar and is believed to provide a broader scope to Applicant's pending claims. Applicant's *electrical operator* is generic to either a solenoid, a motor, a stepping motor or a rotary solenoid." The Examiner's construction of the claim terms used between the various applications and evidence relied upon are considered in light of this admission.

Accordingly, throughout the protracted prosecution of this application, the Examiner has used the "broadest reasonable interpretation" standard in construing the claim terms as supported by the specification. This interpretation of the disputed claim

language is "reasonable" in light of all the evidence. Additionally, Appellant's arguments fail to rebut the presumption that independent claims should not be construed as requiring a limitation added by a dependent claim.

It is further noted that the Examiner has conscientiously tried to place this application in condition for allowance so that this application and copending applications 10/440,308 and 10/630,759 may proceed to interference with Field 5,839,307. In view of Appellant's redundant arguments set forth throughout the brief (e.g. nineteen pages of conclusory remarks), the Examiner's Answer is structured, at times, without regard to when Appellant argues a particular claim and Appellant's arguments have been paraphrased and reorganized for the Board's benefit and consideration.

In an effort to expedite matters, the Examiner believes that Appellant has complied with 37 CFR §1.192(c).

Note the following inconsistencies:

(1) On pages 39-41 of the brief, Appellant argues the rejection of claims 14 and 43 under 35 U.S.C. §103, however, these claims are not rejected under §103. Claim 14 is only rejected under 35 U.S.C. §112 and claim 43 is withdrawn from consideration.

(2) On pages 49-54 of the brief, Appellant argues the §103 rejection of claims 65 and 75, however, claims 65 and 75 are only rejected under double patenting.

(3) On pages 55-60 of the brief, Appellant sets forth a heading for claim 90, however, the subsequent discussion does not appear to be relevant to claim

90. Furthermore, a separate heading is set forth for claim 90 on pages 60-64, with relevant arguments therefor.

(4) On page 64 of the brief, Appellant argues the §103 rejection of claim 95, however, claim 95 is only rejected under double patenting.

## 1. REJECTION UNDER 35 U.S.C. §112, 1ST PARAGRAPH

**(A)** In response to Appellant's arguments on pages 11-20, it is initially noted that the final rejection (06/13/03) of claims 11-13 contained a typographical error - claims 12 and 13 should not have been included in the rejection. Claim 11 however is maintained as rejected under 35 U.S.C. §112.

**(B)** With respect to Appellant's arguments pertaining to claim 11, set forth on pages 11-15 of the brief, the examiner submits that the recitation of "said distal member at least partially surrounds said distal member" in the last line of claim 11 is confusing and lacks support in the specification as to how the distal member can surround itself. It is noted that in the previously filed non-compliant amendments accompanying the preceding Appeal Briefs, Appellant argued that this recitation was a typo and amended the claim accordingly. However, on pages 11-15, Appellant now argues enablement and contends that the recitation is enabling and that a portion of the distal member does support another portion of the distal member (page 12, line17-18, "distal portion 106a surrounding the distal portion 106B of detent 106A"). While this may be true, elements 106a and 106B are two separate elements, not the same distal member. Clearly, the

specification does not support a distal member surrounding the **same** distal member as claimed.

Furthermore, it is noted that if this is the interpretation Appellant now wants to espouse, then a rejection under 35 USC 112, 2nd paragraph would be necessitated as to the lack of proper antecedent basis, since it is unclear which distal portion is being referenced.

**(C)** With respect to Appellant's arguments pertaining to the rejections of claims 90 and 120, the examiner maintains that the instant specification does not provide support for a "plurality of electromechanical locking members" as set forth in claim 120 or "at least one" as set froth in claim 90. Contrary to Appellant;s arguments on pages 15-20, the instant specification disclosed a plurality of locking members in the alternative only, (see Figure 1 and specification pages 12-15). The instant Figure 1 clearly discloses alternate locking members 105,106,107,108 mountable in a single barrel bore 80. Furthermore, the elected embodiment of Figure 8A, clearly shows one locking member 105 received in the single barrel bore 80.

Appellant's further arguments regarding Field, set forth on pages 15, lines 8-12 and pages 18-20, are irrelevant. Furthermore, it is noted that Field does disclose a plurality of locking members 50,52,54 all in one plug, while the instant specification does not.

In addition, on pages 19, lines 1-3, Appellant's discussion of the Request under 37 CFR §1.607 is irrelevant to this proceeding and was requested for the potential interference.

## 2. REJECTION UNDER 35 U.S.C. §112, 2ND PARAGRAPH

**(A)** At the outset, it is noted that these issues were corrected and obviated in the previously filed non-compliant amendments which were filed after the filing of the Appeal Brief subsequent to implementation of the new BPAI rules, however, are now argued by Appellant. It is maintained that the rejections under 35 U.S.C. §112, 2nd should be sustained. [1]

**(B) Rebuttal to Appellant's Specific Claim Arguments**

**Claim 1 (pages 20-21)**

Appellant argues on page 21, line 4, that the phrase "for relative to movement" is readily understandable in context. The examiner simply disagrees. Given Appellant's history of obfuscating the issues by refusing to clarify the claims and claim terminology, this rejection is maintained.

**Claim 6 (page 21)**

Appellant argues that the recitation of "locking means" instead of "locking device" as previously utilized throughout the claim, does not present a lack of clarity or indefiniteness. Firstly, it needlessly introduces an unintended "means" into the issue and secondly, it clearly lacks antecedent.

**Claim 14 (page 21-22)**

Appellant argues on page 22, lines 7-13, that the recitation in claim 14 of "said first and second end" has "inherent antecedent basis" for either of the cylinder or plug.

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[1] The Examiner will enter an amendment, including the proposed changes set forth in the non-entered after-final amendments, when the application is otherwise in condition for allowance.

This statement is clear evidence of Appellant's continual desire to obfuscate. The examiner maintains that it is unclear what "end" is being claimed.

**Claim 70 (pages 22-23)**

While it is agreed that the recitation of "logical" instead of "logic" may merely be a typo, the examiner reiterates that the prosecution history is replete with such examples of issues which could easily be clarified and are instead argued. In the interest of clarity, the rejection should be maintained.

**Claim 121 (pages 23-24)**

Appellant argues on page 23, that "said cylinder plug detent" has clear antecedent basis in the previously recited "bar". As discussed in the Examiner's Introductory comments above, Appellant has continually argued throughout prosecution, in various instances, that the bar and detent are not the same element. Appellant's use of detent and bar interchangeably has also been well documented throughout prosecution of this and the co-pending applications, Accordingly, claim 121 is not entirely clear with respect to this recitation and this rejection should be maintained.

## 3. PROVISIONAL OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION

**(A)** In response to Appellant's general arguments (pages 24-25 of the brief) set forth before the specific claim subheadings, the Examiner submits the following general arguments.

The Board should note the history pertaining to the provisional double patenting issue; the essential fact is that the instant claims were copied into the co-pending

continuing application 10/440,308 in order to expedite prosecution of certain claims. In an interview conducted in the instant parent application '070 in 2002, Appellant proposed to change tack in the parent application '070 and pursue a different embodiment and to file two new continuation applications (one with the interfering claims copied from the Field patent 5,839,307 which would proceed to interference and the second application refiling the originally elected claims of the parent application, while canceling these newly filed claims in the parent application in order to clarify the issues (interview of 6/17/02). While Appellant did indeed file three new applications, two of which are the co-pending applications 10/440,308 and 10/630,759, he has failed to cancel the corresponding parent application claims as agreed upon in the interview. Accordingly, the new provisional double patenting rejections are warranted.

It is further noted that 10/440,308 and 6,564,601 are not divisionals of the instant parent application as Appellant asserts, but rather continuations of 08/720,070.

In response to Appellant's arguments presented on pages 24-27 of the brief, it is submitted that in view of Appellant's refusal to cancel claims in the instant parent application '070 (as agreed to in the interview with the Examiner), in favor of the copied claims presented in the co-pending continuation application 10/440,308 and the patented application 6,564,601, the task of comparing the numerous claims, which subsequently amended employ different terms to recite identical structure (such as detent/bar/rod or electrical operator/solenoid/motor, as discussed above), is not an easy task. Thus, the claims were listed in the double patenting rejection, though not specifically correlated one-for-one.

In response to Appellant's arguments presented on page 25 of the brief, it is noted that, contrary to Appellant's arguments, while there was a species election requirement in the parent application '070, the co-pending application 10/440,308 and patent 6,564,601 are not divisional applications, but rather voluntary continuations of that '070 application. While Appellant argues repeatedly that the 6,564,601 patent is a divisional (page 25, lines 1-10), it is not. Accordingly, the double patenting rejection and provisional rejection is not prohibited under 35 USC §121. Furthermore, Appellant has failed to maintain a clear line of demarcation throughout prosecution of the co-pending applications and the instant parent application by constantly amending the claim terminology in both applications.

The Board is directed to the findings in Perricone v. Medicis Pharmaceutical, 77 USPQ2d 1321, 1324-25 (CAFC 2005) where the CAFC upholds the District Court holding that both patents ('693 and '063) disclose essentially the same subject matter. It was held that where terminology was different, "based on the specification", the terms mean the same thing, "(t)hus the difference disappears." In that case, the district court cited Eli Lilly & Co. V. Barr Labs., Inc. 251 F.3d 955,971 (Fed. Cir. 2001) ("[This court's] case law firmly establishes that a later genus claim limitation is anticipated by, and therefore not patentably distinct from, an earlier species claim.") The CAFC found that "the district court did not improperly conclude that a species was obvious in light of an earlier claim to a genus but correctly concluded that there was no patentable distinction between the language...." The CAFC further held that

> "the district court also considered and correctly rejected the suggestion that procedures of the PTO militate against double

> patenting. Specifically, if Dr. Perricone had presented all of the claims of the '693 and '063 patents to the PTO in a single application, the PTO might have made a restriction requirement. In other words, the PTO might have separated the claimed subject matter into different classifications and different inventions. If the PTO had entered a restriction requirement under that hypothetical situation, 35 USC §121 would have barred a double patenting rejection."

The CAFC held that "this tortured hypothetical does not correspond to the record in this case. The various claims were not filed together nor restricted by the PTO. Thus in simple terms, 35 USC §121 does not rescue Dr. Perricone's voluntarily filed continuation-in-part application."

In the instant application, this same reasoning should be applied. The co-pending application 10/440,308 and patented application which matured to patent 6,564,601 are not divisionals of instant parent application '070 and are, in fact, voluntarily filed continuation applications. Furthermore, although patentably distinct species may be disclosed in the applications, the claims in the two applications are not drawn to patentably distinct genus and/or species. Thus Appellant's arguments in this regard are not persuasive.

**(B) With respect to Appellant's claim arguments as set forth under separate headings, the following are the Examiner's rebuttals.**

**Claims 1-5,11-13,34,65-69,75,92-100,112,121**

Regarding the double patenting rejection, contrary to Appellant's general arguments, the Examiner has not provided a blanket rejection as Appellant asserts, but

rather, has attempted to carefully compare the numerous claims of the parent application and has clearly set forth which claims appear to be substantially similar, warranting a double patenting rejection.

By way of example, the text of instant claim 11 and claim 15 of Hyatt '601 are presented below for the Board's edification. Emphasis is provided to show the differences between the two claims.

### Claim 11 of instant application

A lock, comprising:

a shell containing a hollow recess defining a longitudinal axis and an interior cylindrical surface, said shell bearing a detent extending into said shell;

a plug rotatable around said longitudinal axis while resident within said hollow recess, and a bar interposed between said shell and said plug generally along a radial plane engaging both said shell and said plug while obstructing rotation of said plug within said recess, said plug comprising:

a first base providing a first electrical conductor;

a second base separated by an axial length of said plug from said first base;

an exterior surface extending between and engaging said first base and said second base;

a locking device responsive to a key inserted into said keyway accommodating relative movement between said shell and said plug when the key while inserted into said keyway engages in a selected relation with said locking device and obstructing said relative movement absent said selected relation;

a second electrical conductor terminating with an electrical contact exposed to an exterior of said first base through said orifice;

an electronic logic circuit coupled to receive electrical data signals via said first and second electrical conductors, and generating control signals in dependence upon said data signals; and

an electrical operator having a distal member moving relative to said detent, in dependence upon said control signals between a first orientation relative to said exterior surface enabling said relative movement and a second and different orientation relative to said exterior surface obstructing said relative movement when said distal member at least partially surrounds said distal member.

### Claim 15 of Hyatt patent 6,564,601

A lock, comprising:

a shell containing a hollow recess defining a longitudinal axis and an interior cylindrical surface;

a plug rotatable around said longitudinal axis while resident within said hollow recess, and a bar interposed between said shell and said plug to reciprocate generally along a radial plane between a first position engaging both said shell and said plug while obstructing rotation of said plug within said recess, and a second position accommodating said rotation, said plug comprising:

a first base bearing a keyway and providing a first electrical conductor and an orifice spaced-apart from and separated by a mass of said plug from said keyway;

a second base separated by an axial length of said plug from said first base, said second base bearing means for supporting a cam;

an exterior surface extending between and engaging said first base and said second base;

a locking device responsive to a key inserted into said keyway to accommodate reciprocation of said bar between said first position and said second position when the key while inserted into said keyway engages in a selected relation with said locking device and obstructing said reciprocation absent said selected relation;

a second electrical conductor terminating with an electrical contact exposed to an exterior of said first base through said orifice;

an electronic logic circuit coupled to receive data signals through at least one of said first and second electrical conductors, and generating control signals in dependence upon said data signals; and

an electrical operator having a distal member radially reciprocating along an axis transverse to said longitudinal axis, in dependence upon said control signals between a first orientation relative to said exterior surface enabling said reciprocation and a second and different orientation relative to said exterior surface obstructing said reciprocation.

## Claims 1-5

Appellant argues on page 26, lines 6, that the Hyatt '601 claims do not provide the feature of "an electrical operator...obstructing said relative movement by engaging a detent protruding from the cylinder." Note that the instant claim 1 does not recite both a

cylinder shell and cylinder plug, but rather just a "plug", therefore the above quoted recitation necessarily refers to a bar within the cylinder "plug". As shown above, claim 15 of Hyatt '601 clearly sets forth an electrical operator which obstructs reciprocation of the bar (detent) in the cylinder plug. Accordingly, Appellant's argument's are not persuasive.

**Claims 11-13**

On page 26, Appellant sets forth that claim 11 recites an "electrical operator obstructing... said relative movement..." and argues that patent '601 "nowhere define these features..." A similar argument is presented on page 21 regarding claim 13, and pages 22-23 regarding claims 14-16. However, the Board is reminded that the '601 patent is a continuation of the parent application '070, thus this statement is erroneous. In fact, this feature of instant claim 11 is among the species set forth in the '601 patent.

**Claims 34,65-69,75,92-99 (pages 27-28)**

Appellant's arguments regarding these claims are redundant and have been addressed in the general comments above.

**Claims 46-53 (new rejection to be reviewed on appeal)**

Claim 46 of the parent '070 application recites the same structure as claim 17 of 10/440,03, using different terminology ("bar" instead of the instant "detent", synonymous terms, as previously discussed). Furthermore, instant claims 48-51,53 correspond identically to co-pending claims 18-22. Note that '308 claim 23, recites "said detent comprising a bar" which is exactly what is recited in the instant claim 46 of the '070 application and argued by Appellant to be patentably distinct. Thus it is maintained that

the instant claims are not patentably distinct from the claims of co-pending application '308.

Accordingly, it is respectfully submitted that the double patenting rejection of claims 1-5,11-13,34,65-69,75,92-100,112,121 and the new provisional rejection of claims 46-53 should be upheld.

## 4. PRIOR ART REJECTION UNDER 35 USC §103

### (A) General Statement of Examiner's Rationale

Gokcebay teaches all of the elements of the claimed invention including a cylinder shell 20, plug/barrel 24, elongate members (conventional pin tumblers in bores 52-col.6, lines 61-62), a key engaging surface provided in the keyway and in the housing contact/conductor 28 in Fig.3, a radially oriented aperture which houses a solenoid/electrical operator 36 with a spring biased (48) movable member comprising a bar/detent/blocking pin 38, and electronic logic circuit (fig.2, col.5, line 56 to col.6, line 37).

The difference between the claimed invention and Gokcebay is Gokcebay fails to teach a bar/detent/blocking pin being engaged by a locking member which moves independently of the movement of the bar/detent which is reciprocated between a blocking and releasing position as a result of independent movement of the locking member via the electrical operator. Thordmark et al teach a cylinder having an electronic operator 12, a laterally movable electronic locking member 11 which alternately allows and blocks reciprocation of a radially spring biased sidebar/detent 10

(col.5, lines 38-47). Thordmark et al teach the electrically actuated blocking element being mounted in the cylinder shell and not the plug. While Gokcebay recognizes the existence of electro-mechanical locks having the blocking tumbler mounted in the cylinder casing like Thordmark et al, it is the object of the Gokcebay invention to provide a system which is "very easily retrofitted into lock systems having a single key operating a number of locks, and which avoids the need for electronics, solenoids or other hardware which would take up space within the... lock casing adjacent the lock" (col.2, lines 49-55). Gokcebay itself provides motivation for moving the electronics and hardware into the plug, rather than the shell, for retrofitting purposes and further states that "the most important features being that the blocking pin 38, solenoid 36 and operating devices are located within the lock itself, without requiring any further space...in a lock casing" (see col. 10, lines 11-19). Naveda is applied to reinforce that one having ordinary skill in the art of electro-mechanical or magneto-electric lock systems would have known of the versatility and interchangeability of known electronic elements usable in verifying and actuating electric lock cylinders including among others, miniature coils, miniature electromagnets, electronic memories bioelectric circuits, resistance plates and the like (col.3, line 1-13 and col.4, lines 30-35). Furthermore, Naveda teaches that the electromagnet can be located in the receiver, or alternately, in the body of the key having any size or shape (col.4, line 60, col.9, lines 22-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the simple blocking element of Gokcebay with the multi-part (detent 10 and locking member 11 therefor) electrically actuated blocking element

of Thordmark et al to thwart natural attempts to force system locks that are equipped with electronic blocking functions, of the kind meant by Thordmark (col. 1, lines 38-42), by making forcing of such locks more difficult. It would have further been an obvious reversal of parts and change of size to select miniature logic circuitry and a miniature solenoid and locking member 11 such that the blocking mechanism fits within a conventional sized lock plug as taught by Gokcebay and Naveda.

As set forth above, it is maintained that the prior art references, taken in combination, set forth a *prima facie* case of obviousness of the claimed invention. It is maintained that the combination of teachings of Gokcebay, Thordmark and Naveda, as discussed throughout these proceedings, would have provided motivation to one of ordinary skill in the art at the time the invention was made to place the movable locking member in the plug as claimed.

With respect to the claim language, it is noted that in the lock art, a rotatable plug is the same as a rotatable barrel, a lock cylinder is the same as a cylinder shell, and electrical operator is a general term comprising solenoid, motor, electromechanical member.

**(B) Examiner's Arguments for maintaining the prior art rejections of claims 46-52,54,56,64,70,76,77,90,91,105,108,109,111,113-116,119-121.**

**Claims 46-52,54,56,64,70,76,77,91,108,109,111,113-116,119-121**

With respect to the language of claim 46 (by example), the Examiner submits that Gokcebay teaches a rotatable lock plug (barrel) 24 comprising a cylindrically shaped plug (barrel) 24 for receipt in a bore of a lock cylinder 20, having a first base (front face 30) and second base (rear face which receives a conventional cam), a blocking pin (bar/detent) 38 borne by the plug (barrel) 24, the plug (barrel) 24 having a recess formed therein for receipt of the blocking pin (detent) 38 and a solenoid (electrical operator) 36 wherein in one position the solenoid (electrical operator) limits movement of the blocking pin (detent) and in a second position the solenoid permits movement of the blocking pin (detent) 38. It is agreed that Gokcebay fails to teach a locking member within the plug which is driven by the electrical operator to limit movement of the blocking pin (bar/detent). As discussed generally above, Thordmark teaches a radially movable elongate sidebar/detent 10 and locking member 11 in the shell wherein the locking member 11 is moved laterally by an electrical operator/drive mechanism (motor 12 or electromagnet 17), perpendicularly to the sidebar/detent plane, to limit movement of the detent 10. While Gokcebay itself teaches motivation for providing all electronics and hardware within the plug (col. 2, lines 53-55; col. 3, lines 2-6; col. 10, lines 12-19, especially), instead of the shell as in Thordmark, Naveda further teaches the miniaturization of lock elements as discussed above. Accordingly, the wholesale substitution of Thordmark's locking member and detent for the blocking pin (detent) 38 of Gokcebay would have been obvious to a person of ordinary skill in the art at the time the invention was made in view of the combined teaching of Gokcebay, Thordmark and Naveda, since such person would have been motivated based on the

desirability to miniaturize and place all elements within the plug (barrel) for easily retrofitting plugs (barrels) in electro-mechanical cylinder locks taught by Gokcebay and Naveda and further, for enhancing the lock device by providing a secondary locking means for the detent as taught by Thordmark.

Gokcebay clearly teaches a key engaging conductor surface 28 on the plug, exterior to the first base 30, memory borne by the plug storing a code corresponding to the plug and read by the key, and a solenoid (electrical operator) 36 to move the detent 38 in response to a correct code recognized by the key. Gokcebay's solenoid (electrical operator) 36 clearly blocks the blocking pin (detent) 38 from moving relative to the plug (barrel) 24 or cylinder shell 20 absent reception by the solenoid (operator) 36 of said data signal conforming to said code. (See col. 3-col. 4 of Gokcebay; col. 7, lines 11-14; col. 8, lines 15,21-24). Gokcebay further teaches the key engaging surface 28 on the plug 24, enabling driving of the plug by code means releasing the detent to allow rotation/torquing of the key and plug through the engagement of the key in the keyway. (Gokcebay col. 3, line 64 - col. 4, line 2).

**Claims 90,105**

With respect to claims 90 and 105, the Examiner submits that Gokcebay clearly teaches the structure set forth in instant claim 90, but fails to specify the process steps set forth in fitting a lock with a new plug. However, since Gokcebay clearly teaches the use of the plug 24 in retrofitting cylinder locks, and it is conventionally known that in retrofitting or changing cylinder locks, it is inherent that the cylinder lock would be removed, the plug removed from the cylinder and replaced with a new plug. Gokcebay

clearly teaches, as discussed throughout this answer, that all electronics and hardware such as detents and electrical operators, are placed within the retrofittable plug, rather then the conventional placement in the cylinder shell, in order to easily retrofit new plugs into existing cylinder shells. (col. 3, lines 2-6; col. 2, lines 53-55). Gokcebay further teaches a key engaging surface 28 on the plug 24, enabling driving of the plug by code means releasing the detent to allow rotation/torquing of the key and plug through the engagement of the key in the keyway, a memory borne by the plug storing a code and an solenoid (electrical operator) 36 to move the detent 38 radially in response to a correct code recognized by the key. Gokcebay's solenoid (electrical operator) 36 clearly blocks the blocking pin (detent) 38 from moving relative to the plug (barrel) 24 or cylinder shell 20 absent reception by the solenoid (operator) 36 of said data signal conforming to said code (Gokcebay col. 3, line 64 - col. 4, line 2).

Thus, while it has been repeatedly shown that Gokcebay teaches the claimed structure, it is also shown that Gokcebay teaches the general process of retrofitting a plug in a cylinder lock. Since the specific steps are not taught, this rejection is under 35 USC §103. It would have been obvious to one of ordinary skill in the lock art to employ the well known steps in the lock art of changing a lock plug within a cylinder by removing the old cylinder plug and inserting the new plug (Gokcebay teaches that it is well known that "[l]ocks may be changed in the manner of typical mechanical locks, by replacing the cylinder, or refitting the mechanical bitting (new sets of tumblers) and changing the cylinder plug. (col. 4, lines 33-43).

**(C) Rebuttal of Appellant's General Arguments throughout the Brief**

Firstly, it is noted that Appellant's arguments with respect to the prior art rejection under 35 USC §103 bear no resemblance to the claims or specification. For instance, on page 8 of the brief, Appellant seems to argue that electrical operators 105,106,107,108 can be used together, specifically stating on page 8, lines 6-11 of the brief, that integration of an electrical operator with a locking mechanism may be achieved by incorporation of "one, or more, electrical operators 105, 106, 107, 108". This statement is incorrect. Appellant is attempting to claim what is in the Field '307 patent, which is a "plurality" of electromechanical locking members or operators, for the purpose of future interference proceedings. In fact, the instant specification only provides 35 U.S.C. §112 basis for electrical operators 105-108 in the alternative within chamber 80, adjacent conventional tumbler pin chambers 82, as shown in Figure 1 and set forth on pages 12-15 of the instant specification.

Secondly, in response to Appellant's arguments regarding the rationale of incorporating Thordmark's shell structure into the Gokcebay plug for retrofitting purposes, it is noted that Gokcebay states (col.2, lines 49-55) that an object of the invention is "to provide a system which is very easily retrofitted into lock systems having a single key operating a number of locks, and which avoids the need for electronics, solenoids or other hardware which would take up space within the...lock casing adjacent the lock." Gokcebay further teaches (col. 3, lines 1-6) that the lock

> "has an electronic access feature which occupies no more space than the mechanical lock itself. Nothing is required outside the lock cylinder, and in fact, in preferred embodiments, all electronics and hardware are contained in the cylinder plug, aside from a small

> recess or bore which is provided in the cylinder shell."(emphasis added)

Accordingly, contrary to Appellant's arguments, it has been determined that "motivation is present in the Gokcebay patent, though it may not have been expressly pointed out in the final rejection." It was determined that Gokcebay clearly teaches that

> "the purpose of providing the entire blocking system within the plug is to "provide a system which is very easily retrofitted into lock systems...and which avoids the need for electronics, solenoids or other hardware which would take up space within...the lock casing adjacent to the lock" (col. 2, lines 49 through 54)."

Thirdly, Appellant notes on page 10 of the brief, and by inference throughout the brief, "the inability of the Office to provide the clarification requested by Appellant under 37 CFR 1.104". This statement is not well taken. Throughout the prosecution history of this application, the Examiner has clearly set forth the basis for the art rejections made. Appellant and Examiner are merely at an impasse regarding the teachings of Gokcebay, Thordmark and Naveda and whether a person of ordinary skill in the art armed with such teachings would have been motivated to make the changes proposed by the Examiner.

**(D) Rebuttal of Appellant's Specific Claim Arguments**

Appellant further sets forth specific arguments with respect to the separate claims. These arguments are rebutted with respect to each claim below.

**Claim 46-52,56,64,70,76,77,90,91,105,119 (pages 31-33)**

In response to Appellant's arguments on pages 31-33, that the Examiner's proposed combination "lacks teaching or suggestion of claim 46's "bar borne by said plug and rotatable with said plug relative to said shell...", the examiner maintains that, in fact, as previously discussed, the primary reference Gokcebay does teach a detent 38 borne by the plug 24 and rotatable with the plug 24 relative to said shell 46 (Gokcebay Fig.4). It is reiterated that in the lock art, a cylinder plug is synonymous with a barrel, and a cylinder is the same as a shell, thus Appellant cannot argue that Gokcebay's rotatable cylinder plug 24 within the lock cylinder 20/46 is different from the instant rotatable barrel within a cylinder shell. Furthermore, in the Examiner' combination, the Thordmark laterally moving electrical operating member 13,12 and locking member 11 and the radially movable elongate sidebar/detent 10 are substituted for the plug borne detent 38 of Gokcebay, clearly teaching the claimed relationship between the plug and shell.

Appellant continues to state that Gokcebay is "singularly devoid of any structure for bearing a detent" (page 31, line 4-5 of the brief); this statement is incorrect and misleading. Clearly the plug borne blocking pin 38 of Gokcebay is a spring-biased detent, by definition, between the rotatable plug 24 and cylinder shell 20. Appellant's further arguments on page 32-33, regarding the combination with Thordmark are not persuasive since the examiner is not proposing utilizing the Thordmark locking member 11 and sidebar/detent with the detent 38 of Gokcebay, but rather substituting the Thordmark sidebar/detent 10 and locking member 11 for the detent of Gokcebay since both are actuated by an electrical operator.

It is noted that while Appellant refers to the detent 10 of Thordmark only as a "latching member" and the element 7 of Thordmark as a sidebar (page 34, lines 1-4), the Examiner submits that the member 10 clearly operates as a sidebar in addition to the sidebar 7 and is thus interpreted as a sidebar 10 with blocking locking member 11, operated by electrical operator 12,13.

In response to Appellant's argument on page 34, that there is no teaching "for shifting "a spring biased sidebar 10" anywhere", since the "primary reference does not require a sidebar...", the Examiner reiterates that while Gokcebay teaches a spring biased sidebar/detent 38, the combination includes the Thordmark sidebar and locking member. Furthermore, Naveda is merely used to teach the miniaturization of lock elements.

It is further noted that footnote 73, set forth on page 31, erroneously states that the Thordmark member "10, or 11 must necessarily remain with the recess, or bore, provided by the outer shell of the lock..." This statement is not true. If, as the Examiner proposes, the entire lock system mounted in the shell is wholly substituted for the electrical operator and detent of Gokcebay, in view of Gokcebay's teaching, there is no basis for Appellant's statement.

In response to Appellant's argument of "hindsight reconstruction" set forth on page 33, it is maintained that Gokcebay itself teaches motivation for providing all electronics and lock systems within the plug for easily retrofitting cylinder locks. Furthermore, there is ample teaching flowing from Gokcebay, Naveda, and Thordmark to motivate the person of ordinary skill in the art at the time the invention was made

toward a more secure electro-mechanical cylinder plug which can be retrofitted into existing lock systems, without reliance on Appellant's specification.

**Claims 46,56,64,70,76,77,90,120,121 (pages 34-37)**

In response to Appellants' arguments on page 34-37 against Gokcebay, it is maintained that Appellant continues to argue the prior art references singularly, when it is clear that the combination is being presented as teaching the claimed invention.

Regarding Appellant's arguments on page 35-36, Gokcebay's solenoid (electrical operator) 36 clearly blocks the blocking pin (detent) 38 from moving relative to the plug (barrel) 24 or cylinder shell 20 **absent reception** by the solenoid (operator) 36 of said data signal conforming to said code (Gokcebay col. 3, line 64 - col. 4, line 2). The Examiner submits that it would have been obvious to reverse the coding and program the electronics of Gokcebay, as desired, to provide the process of blocking the blocking pin (detent) 38 from moving **upon reception** by the solenoid (electrical operator) 36 of the code. In other words instead of programming the electronics such that the correct code releases the detent to allow rotation of the plug within the cylinder shell, the code would block the detent from movement, thus locking the plug against rotation in the cylinder shell. This modification in programming the electronics of Gokcebay would have been obvious to one having ordinary skill in the lock art in view of the well known fact that electronics can be programmed to lock or release depending on the desire of the user, and especially in view of the teaching in Gokcebay (col. 10, line 11-12) that the system of the invention can be "modified to operate in other ways."

In further response to Appellant's argument set forth on page 31-37, it is maintained that the detent may move to allow rotation of the plug within the cylinder shell only upon energization of the solenoid operator 36 of Gokcebay, in response to a correct code. In other words, the detent is released to move. On page 37, Appellant argues that the wholesale substitution of Thordmark's detent and locking member "impermissibly prevents the primary reference [Gokcebay]... from operating in its intended mode of operation" with a bore or recess 50 [drilled into or preferably through cylinder shell 46. The Examiner maintains that a person of ordinary skill in the art is presumed to know something about the art. It is maintained that a person of ordinary skill in the art at the time the invention was made would know how to modify Gokcebay such that the cylinder plug and shell are operable when the cylinder plug of Gokcebay is outfitted with the detent/sidebar solenoid locking assembly of Thordmark. Essentially, the electro-mechanical locking assembly of Thordmark which is housed in the lock cylinder/shell 2, would be flipped and inserted into the plug of Gokcebay such that the sidebar/detent 10 would fit through a slot/recess in the plug of Gokcebay and mate with a groove/recess in the lock cylinder/shell of Gokcebay. Therefore, if the detent were cylindrical, as shown in Figs. 3 and 5 of Gokcebay, a bore would be drilled to accommodate it. If instead the detent were a well known longitudinally disposed detent/sidebar (10) such as shown in Thordmark, a recess (3a) would extend longitudinally along the lock shell/cylinder and plug in order to accommodate the sidebar in the locked and released position. Accordingly, Appellant's argument is not persuasive. Further with respect to the argument on page 35, that "Despite Appellant's

request... for clarification..., no explanation has been forthcoming.", it is submitted that Appellant clearly understood the Examiner's position as evidenced by his capable reiteration of the Examiner's position throughout the brief.

**Claim 46 (pages 37-39)**

Appellant reiterates his arguments regarding claim 46 and the teachings of Gokcebay and Thordmark; these arguments are redundant and were answered above.

Appellant's argument on page 38 regarding Thordmark are not persuasive. The examiner maintains that Thordmark does teach movement in two planes. The electrical operator 13 and locking member 11 move laterally along the plug axis and perpendicularly to the radially movable sidebar/detent 10.

**Claims 14 and 43 (pages 39-41)**

As discussed previously, claim 14 is not rejected under 35 U.S.C. 103 and claim 43 has been withdrawn from consideration. Thus these arguments are moot.

**Claims 46-52,54,56,64,70,76,77,90,91,105,108,109,111,113-116,119,120 (pages 41-46)**

**Claims 47,48,51 (page 47-48)**

**Claim 49 (page 48)**

**Claim 56 (page 48-49)**

**Claims 64,65,70,75,76,77 (pages 49-54)**

Appellant's arguments pertaining to the claims presented in the preceding five headings, set forth on pages 41-54, are redundant and were answered above.

Furthermore, as noted previously, claims 65 and 75 are only rejected under double patenting and should not be discussed here.

**Claim 90 (pages 55-60)**

As previously discussed, the arguments presented on pages 55-60 do not appear to be relevant to the "process" claim 90, and are merely redundant arguments similar to those set forth previously in the brief and answered above. Furthermore, Appellant's statement on page 55, line 6-7, that "the Examiner improperly asserted that independent claim 90...was withdrawn from consideration..." is an incorrect statement. In fact, claim 90 is rejected under 35 U.S.C. 103 and is not withdrawn.

**Claim 90 (page 60)**

In response to Appellant's argument on page 60 that the Examiner's proposed combination requires a "recess or bore 50" (page 60, line 6) and that "Appellant's process neither uses nor requires a modification of the shell" (page 60, line 12-13) to accommodate the process of claim 90, it is submitted that this statement is both incorrect and irrelevant. Firstly, it is irrelevant because the instant claims do not recite that no modification or alteration of the cylinder shell is required. Secondly, it is an incorrect statement, because in fact, the instant specification discloses that "minor alteration" is needed (page 5, lines 2-3 recites a "minor alteration of a lock's cylinder; page 18, lines 5-6 requires single hole modification).

**Claim 91 (page 60-64)**

Appellant's arguments set forth on page 60-64 with respect to claim 91 are redundant and were answered above.

**Claim 95 (page 64-65)**

As noted previously, claim 95 is only rejected under double patenting and should not be discussed here.

**Claim 105 (page 65)**

Appellant's arguments set forth on page 65 with respect to claim 105 are redundant and were answered above.

In response to Appellant's arguments on page 65, it is once again maintained that Gokcebay clearly teaches retrofitting a cylinder plug within a new or existing cylinder shell of a cylinder lock. As previously discussed above with respect to the Examiner's position regarding claim 90, it is maintained that in providing the retrofit cylinder or plug of Gokcebay, the process steps of the instant claims would be employed.

**Claims 108,109,111,113-116 (pages 65-66)**

Appellant's arguments set forth on page 65-66 with respect to claims 108,109,111,113-116 are redundant and were answered above.

**Claims 119,120 (pages 66-67)**

Appellant's arguments set forth on page 66-67 with respect to claims 119,120 are redundant and were answered above.

Note, however, Appellant's statement on page 66, line 18, that "claim 119 is a copy of claim 1 of Field '307"; it is noted that claim 119 depends from now cancelled claim 85, and therefore, is not a copy of claim 1 of Field.

With respect to claim 120, it is noted that, as previously discussed above and in the rejection under 35 U.S.C. 112, 1st paragraph, there is no support in the instant specification for "a plurality of electromechanical locking members". Accordingly, claim 120, while copied from the Field patent 5,839,307, is rejected herein "as best understood" with one electromechanical locking member.

**Claim 121 (page 67-68)**

Appellant's arguments set forth on page 67-68 with respect to claim 121 are redundant and were answered above.

**In response to Appellant's conclusory bullets set forth on pages 70-71:**

· Gokcebay teaches a solenoid (an electrical operator, as admitted by Appellant and discussed previously in this answer) within the plug or barrel (not cylinder shell) and also teaches putting all components into the plug, as discussed repeatedly throughout this answer.

· Firstly, Gokcebay is not "wholly devoid of any bar", but rather teaches detent /bar 38 as previously discussed in this answer. Thus this opening statement is incorrect. Secondly, Thordmark and Naveda are not used to teach the process step of "inserting a different plug comprised of a detent mounted upon said different plug". Gokcebay teaches the process of retrofitting, Thordmark is used to teach a locking member 11 for a detent 10.

· Gokcebay clearly teaches a detent that provides engagement between the shell and cylinder plug; Appellant's statement is incorrect and misleading.

Furthermore, the use of cylinder and plug interchangeably is unnecessarily confusing.

· While it is true that Thordmark teaches nothing about insertion of any operator within the cylinder, Thordmark is not used to teach that, but rather to teach the use of an electrically driven locking member 11 for a detent 10.

· Gokcebay does not require "major alteration" of the shell as stated - this statement is incorrect. As discussed previously, Gokcebay requires the same minor alteration to the "recess or bore" as the instant disclosed invention.

· The argument that both Gokcebay and Thordmark are "utterly incapable of providing any interaction with the primary locking mechanical features" is both wrong and irrelevant. This feature is not recited in the claims and is therefore irrelevant. Also, it is untrue, since both Gokcebay and Thordmark provide the electrical/electromechanical detent in addition to the primary mechanical locking features provided in the conventional pin tumblers (pin tumbler bores 52 of Gokcebay; 5 of Thordmark) actuated by the key.

· It is true that Naveda is singularly devoid of any teaching of a cylinder plug and primary mechanical locking mechanism, however, it is noted that Naveda is only used as an additional teaching reference for miniaturizing lock components, as previously discussed in this answer.

· It is true that Naveda fails to describe the locking components. As stated above, it is merely used as a further teaching reference for miniaturizing lock components.

Appellant's conclusion, set forth on pages 68-87 of the brief, reiterates the arguments set forth on pages 1-67 of the brief and have been considered and rebutted throughout the Examiner's answer. Contrary to Appellant's arguments, the Examiner has not focused only on individual limitations, but rather on the claimed invention as a whole. It is Gokcebay's primary and "most important feature" to provide a cylinder plug which may be easily retrofitted in a cylinder shell by providing all electronics and hardware in the plug instead of the shell (col. 3). Naveda is used merely to teach the miniaturization of lock components to provide further motivation for providing the locking member and detent of Thordmark within the plug of Gokcebay. The Appellant has set forth many inaccurate statements and arguments. The Examiner maintains that a *prima facie* case of obviousness has been established and not rebutted by the Appellant.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Suzanne Dino Barrett

Conferees:

Darnell Jayne

Brian Glessner

**Appendix to the Examiner's Answer**

Claim 11. (previously presented) A lock, comprising:

a shell containing a hollow recess defining a longitudinal axis and an interior cylindrical surface, said shell bearing a detent extending into said shell;

a plug rotatable around said longitudinal axis while resident within said hollow recess, and a bar interposed between said shell and said plug generally along a radial plane engaging both said shell and said plug while obstructing rotation of said plug within said recess, said plug comprising:

a first base providing a first electrical conductor;

a second base separated by an axial length of said plug from said first base;

an exterior surface extending between and engaging said first base and said second base;

a locking device responsive to a key inserted into said keyway accommodating relative movement between said shell and said plug when the key while inserted into said keyway engages in a selected relation with said locking device and obstructing said relative movement absent said selected relation;

a second electrical conductor terminating with an electrical contact exposed to an exterior of said first base through said orifice;

an electronic logic circuit coupled to receive electrical data signals via said first and second electrical conductors, and generating control signals in dependence upon said data signals; and

an electrical operator having a distal member moving relative to said detent, in dependence upon said control signals between a first orientation relative to said exterior surface enabling said relative movement and a second and different orientation relative to said exterior surface obstructing said relative movement when said distal member at least partially surrounds said distal member.

**Examiner's Evidence Appendix**

See the following excerpted prosecution history – Hyatt 6,564,601